

Notice of Allowability

Application No.

09/909,998

Examiner

William C. Choi

Applicant(s)

JOHN ET AL.

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 1/26/2004.
2. ☒ The allowed claim(s) is/are 1,3,4,6,7,9,10,12-62 and 64-69.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☒ to Paper No./Mail Date 0902.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Georgia L. Papp
Supervisory Patent Examiner
Technology Center 2800

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

1. Claim 69, line 8, delete "strucutre" and insert therein --structure--.

Allowed Claims: 1, 3, 4, 6, 7, 9, 10, 12-62 and 64-69.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: none of the prior art either alone or in combination disclose or teach of the claimed combination of limitations to warrant a rejection under 35 USC 102 or 103.

Specifically, with respect to independent claim 1, none of the prior art alone or in combination disclose or teach of a photonic crystal as claimed specifically wherein at least one of at least two dielectric constituents, infiltrated into void regions, is optically anisotropic and wherein said optical anisotropy is controlled by application of one of an electric, magnetic and electromagnetic field.

Specifically, with respect to independent claim 38, none of the prior art alone or in combination disclose or teach of a photonic crystal as claimed, specifically wherein at least one of a first and second dielectric constituents is optically anisotropic and has

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refractive index properties which can be locally or globally modified in a controlled manner whereby changing the refractive index properties changes said photonic band structure for providing control of propagation of light through said photonic crystal.

Specifically, with respect to independent claim 62, none of the prior art alone or in combination disclose or teach of a method of tuning a photonic band structure in a photonic crystal as claimed, specifically wherein said second dielectric constituent includes at least one optically anisotropic material infiltrated into the void regions, whose refractive index properties can be changed in a controlled manner.

Specifically, with respect to independent claim 64, none of the prior art alone or in combination disclose or teach of a method of tuning a photonic band structure in a photonic crystal having periodic composite dielectric material having an inverse opal structure as claimed, specifically wherein a first dielectric constituent is optically anisotropic whose refractive index properties can be changed.

Specifically, with respect to independent claim 69, none of the prior art alone or in combination disclose or teach of a method of tuning a photonic band structure in a photonic crystal as claimed, specifically wherein a first dielectric constituent is optically anisotropic whose refractive index properties can be changed and the second dielectric constituent is a dielectric solid material.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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CONCLUSION

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Choi whose telephone number is (571) 272-2324. The examiner can normally be reached on Monday-Friday from about 9:00 am to 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Y. Epps can be reached on (571) 272-2328. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WC
William Choi
Patent Examiner
Art Unit 2873
April 12, 2004


Georgia Epps
Supervisory Patent Examiner
Technology Center 2800